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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,149	01/18/2001	John Victor Parkinson		1286
7590	12/02/2004		EXAMINER	
John V. Parkinson 708, East Cook St. Santa Maria, CA 93454			GHATT, DAVE A	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/766,149	PARKINSON, JOHN VICTOR	
	Examiner	Art Unit	
	Dave A Ghatt	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 September 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 10, and 12-46 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 6-9, 11, and 47-53 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01/18/01 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-5 and 12-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper dated February 2, 2004.
2. Applicant's election with traverse of the election requirement in Paper dated February 2, 2004 is acknowledged. The traversal is on the ground(s) that claims 6, 26, and 43 are related to a single invention. This is not found persuasive because separate and distinct searches are required for each of claims 6, 26, and 43.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

3. Claims 47-53 are objected to because of the following informalities: In claim 47 lines 2-3, the applicant uses the language, "for the typing of at least *eight* different characters." [Emphasis added.] From the language of claim 48 line 2, which recites "ten different characters," and also from the applicant's written comments on page 2 of the applicant's response, it appears as though the applicant meant to recite the language, "for the typing of at least *ten* different characters" in claim 47. Appropriate correction is required.

With respect to the present office action, the applicant should note that the examiner treated claim 47 as though it required "*ten* different characters".

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language of claim 10, i.e., "said means being reversing means for using alternative configurations of columns of keys selected by reversing all or part of said keyboard," is confusing. As a result, it is not clear what structure is being claimed. In fact, the language of claim 10 is so confusing that prior art was not applied to this claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton (US 3,970,185). With respect to claims 6 and 11, as illustrated in Figure 1 teaches a multi-mode electronic keyboard suitable for two-handed touch typing and having an alphanumeric section that is not more than five rows of keys. As illustrated, the alphanumeric section includes at least one shift key (UC, IC) and a plurality of keys for typing graphic characters. As illustrated in Figures 1 and 2, the keyboard includes two 'A' keys, therefore as broadly recited, Shelton

teaches alternative option means to be used according to operator preference allowing at least two alternative options for conveniently touch-typing the identical characters.

With respect to claim 7, the shift keys (US and IC) could be used to type certain characters on their own keys, and a second means for typing the certain characters by shift-selecting them on other keys. In other words, the typing of either uppercase or lowercase ‘A’ using the different ‘A’ keys and the shift key, meets this limitation.

With respect to claims 8 and 9, Figure 11 of Shelton teaches alternative option means being at least one shift key (UC, IC) conveniently positioned for operation by either thumb or an index finger, the at least one shift key positioned relative to some of the graphic character keys so as to allow at least some shift-selected characters to be conveniently typed either by using one digit on each hand, or using two digits on one hand.

8. Claims 47-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton (US 3,970,185). With respect to claims 47 and 48, Shelton teaches the claimed invention. As illustrated in Figure 1, Shelton teaches a keyboard having typing keys arranged in such a way as to provide key arrangement means that provides the user with a choice of different methods of operation for the typing of at least ten different characters. Figure 1 shows keys in rows 12, 13, and 15, that include at least two different keys (methods) for entering the letters, ‘A’ ‘C’ ‘E’ ‘S’ ‘H’ ‘N’ ‘T’ ‘R’. Rows S14 and 15 also illustrate different methods for typing characters ‘I’ ‘O’ and ‘U’. As illustrated, Figure 1 shows means to type at least ten different characters on keys assigned to those characters.

With respect to claims 49 and 50, insofar as structure is recited, Shelton teaches the claimed arrangement. Shelton teaches a key arrangement means that provides the user with the choice of conveniently selecting at least two different shift key (UC or IC) functions with either a thumb or an index finger, while the hands remain substantially in home position.

With respect to claim 51, Shelton also teaches the recited arrangement. The applicant should note that both shift keys (UC and IC) could be used to select multiple shift functions.

With respect to claim 52, insofar as structure is recited, Shelton teaches the claimed arrangement. Shelton teaches a key arrangement means that provides the user with the choice of conveniently using either one hand or two for typing at least two different shift-character combinations, using the UC or IC keys, while the hands remain substantially in home position.

With respect to claim 53, insofar as structure is recited, Shelton teaches the claimed invention. The keyboard of Shelton as illustrated in Figure 1 provides the recited function, wherein a user has a choice of selecting alternative configurations of columns of keys assigned to particular fingers. In using the keyboard of Shelton, a user can select any desired column of keys, which is all that is required of this language.

Response to Arguments

9. Applicant's arguments filed September 7, 2004 have been fully considered but they are not persuasive. The Shelton reference has been applied to the newly presented claims.

With respect to claims 6-11, it appears as though the applicant meant to cancel these claims. If this is the case, then the applicant should state on the record that these claims are cancelled. With respect to claim 10, the applicant has "withdrawn" this claim. An applicant can

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withdraw a claim if the claim is directed to a non-elected invention. This is not the same as canceling a claim. Because it is not clear that claims 6- 11 are cancelled, the examiner has repeated the original rejections.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims

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appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$330.00 (non-small entity filing fee).

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave A Ghatt whose telephone number is (571) 272-2165. The examiner can normally be reached on Mondays through Friday 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAG



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